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## H.B. 5168 -- "As is" sales of used motor vehicles

Transportation Committee public hearing -- February 22, 2012

Testimony of Raphael L. Podolsky

<p><u>Recommended Committee action:</u> <b>CLARIFYING AMENDMENT REQUESTED</b></p>
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The Committee should add clarifying language to this bill to avoid any misunderstanding that a dealer can make an "as is" sale of a used car with safety defects if the car is covered by the Used Car Lemon Law, C.G.S. 42-220 et seq. (Chapter 743f of the General Statutes).

The ambiguity comes from I. 11-19 of the bill, which say that, if safety defects are not repaired by the dealer "and the vehicle is not subject to any warranty," the dealer is to note the defects, mark the documents "unfit for highway operation," and obtain the buyer's approval. Under C.G.S. 42-224(a), "a used motor vehicle may be sold 'as is' by a dealer only if its cash purchase price is less than \$3,000 or if such used motor vehicle is seven years of age or older." The language of I. 11-19 concerning "as is" sales must therefore necessarily apply only to used cars that can legally be sold "as is" under C.G.S. 42-224(a). In addition, under C.G.S. 42-224(c), for the limited category of used cars that can be sold "as is," the "as is" sale "shall not waive any express warranties, whether oral or written, which may have been made nor shall it affect the dealer's responsibility for any representations which may have been made, whether oral or written, upon which the buyer relied in entering into the transaction." The only warranties that can be waived are what are known as "implied warranties." In other words, even if the car is more than seven years old or sells for less than \$3,000 and is sold "as is," the dealer is bound by all promises and representations regarding the car that he actually makes.

In order to avoid any confusion as to whether the language in H.B. 5168 overrides these provisions of the Used Car Lemon Law, I suggest that the Committee add the following sentence (or similar language) to the end of I. 25:

"Nothing in this section shall preempt the provisions of section 42-224 or any other part of chapter 743f."